APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,726	02/06/2004	Donna N. Dillenberger	YOR919990295US2 (12764A)	8601

23389 7590 02/02/2009	EXAMINER
SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530	ZHE, MENG YAO

ART UNIT	PAPER NUMBER
2195	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _20 October 2008_.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _31 and 34_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _31, 34_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)
1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.   Claims 31, 34 are presented for examination.

Continued Examination Under 37 CFR 1.114

2.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

10/20/2008 has been entered.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 31, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Bacon et al., Patent No. 6,430,538 (hereafter Bacon) in view of Acosta et al., Patent No.

6,166,729 (hereafter Acosta) further in view of Shi, Patent No. 5,381,534 (hereafter

Shi).

5.   Bacon and Acosta were cited in the previous office action.

6.   As per claims 34, Bacon teaches a method of distributing work through a cluster

of workstations for efficient distributed processing, said cluster having a plurality of

workstations interconnected over a network, the method comprising:

        receiving a work request at a first processing node (Column 4, lines 21-25);

        classifying, at said first processing node, the work request into one or more tasks

(Column 4, lines 38-47);

        assigning said one or more tasks to one or more router devices at said first

processing node, a router capable of handling a specific task of a particular class of

work (Column 4, lines 39-57);

        dispatching said assigned one or more tasks for execution at a second

processing workstation at a second processing node having an execution module

residing therein (Column 5, lines 56-60), the execution module at said second

processing node comprising one or more initiators (Column 4, lines 50-55: each actor,

agent, client or element from a work group may each correspond to an initiator) for

instantiating one or more objects to execute a respective work task (Column 5, lines 23-

25, lines 28-30, lines 40-47, lines 60-65; Column 13, lines 54-61: Java objects, CORBA

objects, logic elements all corresponds to objects instantiated by the initiators), said

initiators dynamically registering with a router to indicate readiness to accept work for

processing (Column 6, lines 65-66), said objects instantiated by an initiator with a

generic class name but having a different implementation specific to a node in which

said initiator resides to enable use of system specific resources and enable a single

version of an application to run on each node (Column 7, lines 12-25, lines 45-53;

Column 8, lines 1-12, lines 55-62)

upon completion of said respective work tasks, each said one or more initiators

providing to said respective router the completed work task at said first processing node

and providing system specific statistics data associate with said initiator (Column 8,

lines 1-40; Column 11, lines 1-23; Column 5, lines 35-37);

queuing ready initiators at a respective router device based on said categorized

initiator performance (Column 6, line 65-Column 7, line 8; Column 8, lines 15-40).

Bacon teaches scheduling and distributing work using information provided by

the initiators and further performing load balancing (Column 11, lines 1-23; Column 5,

lines 35-37), but Bacon does not specifically teach router queues and computing

performance statistics of a router queue and said one or more initiators, a performance

statistic including a total response time from dispatching of a work task from that router

queue to an initiator, and the receipt of the completed work task at the router queue

from that initiator, said total response time used to determine the performance of an

initiator and categorize the initiator performance for determining said one or more

initiators best suited to execute said one or more tasks and wherein said best

performing initiators are given priority for receiving new tasks from a respective router.

However, Acosta teaches a queue associated with every server that is needed

for task processing and determining performance statistics associated with said one or

more router queues, and, adding additional workstations to execute said one or more

tasks based on the performance statistics of said one or more router queues (Column 14, lines 33-50) for the purpose of monitoring loads of servers.

It would have been obvious to one having ordinary skill in the art at the time of the applicant's invention to combine the teachings of Bacon with queues and determining performance statistics associated with said one or more router queues, and, adding additional workstations to execute said one or more tasks based on the performance statistics of said one or more router queues, as taught by Acosta, such that Bacon's initiators contained in the added workstations are consequently added, because it allows for monitoring the load of workstations.

Bacon in view of Acosta does not specifically teach that performance statistic is the measurement of a total response time from dispatch of a work task from that router queue to an initiator, and the receipt of the completed work task at the router queue from categorized initiator performance for determining said one or more initiators best suited to execute said one or more tasks and wherein said best performing initiators are given priority for receiving new tasks from a respective router.

However, Shi teaches giving priority to best performing initiators for receiving new tasks where the performance is measured by which computer in the network completes a task in the quickest amount of time for the purpose of load balancing (Column 25, lines 3-9).

It would have been obvious to one having ordinary skill in the art to modify the teachings of Bacon in view of Acosta, where Bacon's load balancing may be achieved by measuring the time it takes for a task to executed, as taught by Shi, where the time is

defined by the way tasks are executed in Bacon's system, specifically the time from dispatch of a work task from the router to the receipt of the completed work task at the router from the initiator, such that the best performing initiators are given priority for receiving new tasks from a respective router, because this allows for automatic load-balancing.

7.   As per claim 31, Bacon teaches determining one or more initiators at a second processing node best suited to execute said one or more tasks and dispatching said one or more tasks to said best suited one or more initiators for execution (Abstract; Column 8, lines 15-40; Column 11, lines 5-23).

Response to Arguments

8.   Applicant's arguments filed on 12/20/2008 have been fully considered but are not persuasive.

9.   In the remark, the applicant argued that:

    i) Acosta is directed to non-analogous subject matter being directed to a remote digital image viewing methodology which has nothing to do at all with workflow management for distributed workstations,

10.   The Examiner respectfully disagree with the applicant. As to point:

i) In response to applicant's argument that Acosta is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, even though Acosta's system is specifically used for sending digital images from a server to other devices on the network for processing, the overall structure of Acosta's system is the same as the one claimed by the applicant—works are distributed from a router or server to other devices or workstations. Furthermore, Acosta's invention deals with matter and problems that would logically commend itself to the applicant's attention in considering his/her invention as a whole, mainly, how to load balance and distribute work from a central location to other remote devices. Therefore, regardless whether the work that gets distributed are images or other kinds of work, Acota's invention is analogous to applicant's invention and also Bacon's invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MENGYAO ZHE whose telephone number is (571)272-6946. The examiner can normally be reached on Monday Through Friday, 7:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Meng-Ai An/
Supervisory Patent Examiner, Art Unit 2195